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Docket No.: 3054-008 CON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : THAGARD, Gregory B. *et al.*
Serial No. : 09/300,042
Filing Date: : April 27, 1999
Group Art Unit : 2675
Examiner : CHOW, Doon Y.
Confirmation No. : 4009
Title: : CLOTHING WITH IMAGE DISPLAY

TRANSMITTAL OF APPEAL BRIEF

S I R :

Enclosed are three copies of the Appellants' Appeal Brief with a check for \$950.00 in accordance with 37 CFR 1.192.

Respectfully submitted,

GOTTLIEB, RACKMAN & REISMAN, P.C.
Attorneys for Applicant
270 Madison Avenue
New York, New York 10016-0601
Telephone: (212) 684-3900
Facsimile: (212) 684-3999

Tiberiu WEISZ
Reg. No. 29, 876



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APPEAL BRIEF

I. REAL PARTY OF INTEREST

The real party of interest in the present application is the assignee, Warner Bros. Entertainment Inc.

II. RELATED APPEALS AND INTERFERENCES

None.

III. STATUS OF CLAIMS

The status of the claims in the present application is as follows:

1-31.	Cancelled
32-34.	Rejected
35.	Cancelled
36-48	Rejected
49-50	Cancelled
51-60	Rejected
61	Cancelled
62	Rejected
63	Cancelled
64-67	Rejected

IV. STATUS OF AMENDMENTS AFTER FINAL REJECTION

An amendment filed on June 30, 2004 was entered.

V. SUMMARY OF THE INVENTION

The present application pertains to a garment or clothing apparel that incorporates an electronic display having characteristics similar to a fabric. The electronic display includes a layer of a light emitting polymer (LEP). Light emitting

polymers are substances that can be selectively excited by an electric signal to generate an image. The image may be either a still image, or a moving image. Electronic circuitry is also provided that controls the operation of the electronic display. The circuitry includes a memory storing information used to generate images.

In one embodiment, a vest is disclosed that is used by war game participants. The vest includes an electronic display as described above, and sensors that determine and provide an indication of the wearer being “hit” by beam of light.

VI. ISSUES

Whether the claims are rendered obvious by the Fitch reference in combination with Levin and Shanks.

VII. GROUPING OF CLAIMS

The Appellants have determined that the claims can be grouped as follows:

Group I: Claims pertaining generically to a display having fabric-like characteristics. Claims 65 and 67 are illustrative of these claims.

Group II: Claims pertaining to display panels having fabric-like characteristics that attach to garment or apparel. Claims 62 and 33 are illustrative of these claims.

Group III. Claims pertaining to display panels having fabric-like characteristics that are integrally incorporated into a garment or apparel. Claim 60 and 34 are illustrative of these claims.

VIII. ARGUMENT

As indicated above, the claims were rejected as being obvious over various references. An obviousness determination must be based on the following considerations: (A) the teachings of the prior art as reflected by the cited references; (B) the differences between the claimed subject matter and the prior art; and (C) whether a person skilled in the art would combine the prior art to obtain the claimed invention.

A. The prior art taught by the cited references

(1) Fitch

U.S. Patent No. 5,912,653 to Fitch discloses a garment with a programmable video display unit. The display unit is attached to the back portion of the garment. More particularly, as illustrated in Fig. 7, a plurality of round apertures 81 are provided in the outer surface of the garment through each of which a diode package protrudes. The diode package consists of two diodes 82, 84 which are selectively excited by a source 86 to generate one of three colors (col. 4, line 57-col. 5, line 8). The circuitry

used to control the excitation of the LEDs and to receive and store images is mounted on a standard printed circuit board 88 (Fig. 6).

(2) Levin

U.S. patent No. 4,601,120 discloses a flexible substrate 11 such as a standard fabric material that is installed in a garment or an umbrella. Pieces of a second material 13 shaped like alphanumeric characters are secured to the substrate by sewing or bonding. Both materials are formed with a plurality of matching apertures or holes. The reverse side of substrate 11 is provided with a pair of conductors 15 connected to a battery 20, a repeating interrupter 24 and a switch 21. The conductors are coupled to a plurality of lamps 14 (that may be LEDs). A backing may be applied to the reverse side of material 11 to protect the wires and the lamps. The lamps are arranged and positioned within the holes so that they extend through both materials. Thus, for the purposes of this analysis, Levin and Fitch teach the same thing: a garment or other similar article formed with holes and a plurality of LEDs disposed in and extending through the holes.

3. Shanks

U.S. Patent No. 5,747,928 to Shanks et al discloses a device having the size and physical characteristics of a credit card. The device, shown in detail in Fig. 2, consists of two stiff plastic plates 27, 25 and an intermediate layer 26. Plates 25, 27

are stiff enough and small enough so that the resulting card can be carried in a valet. Clearly, such a device may be bent slightly and then released, causing the card to retain its shape. Of course, if the card is bent too far, it becomes deformed, or may break. In one embodiment of the invention shown in Figs. 1, 2, the card is planar. In a second embodiment shown in Fig 4, the card is shaped into a somewhat curved, 3D configuration. However, it should be noted in this second embodiment the card 53 is still stiff.

The intermediate layer 26 consists of thin film transistor circuitry and includes a insulating substrate (32 in Fig. 3) formed with a plurality of electronic semiconductor switches 31, excitation electrodes 35 and a light emitting member 30. A transparent electrode 39 covers and protects the light emitting member 30. The light emitting member includes a second insulating layer 36 and a light emitting polymer layer 38. No information is provided on whether the insulating layers 32 and 36 are stiff or flexible. However, layer 32 is mounted on plate 27 and there is no reason for it not to be stiff to insure the proper position of the light emitting layer 38. Thus the only layer in the device that for argument's sake is remotely flexible is the layer 38. The light emitting layer 38 is arranged to define a two dimensional array of pixels that can be selectively activated on the card using an excitation array as depicted in Fig. 4.

B. The combination of the three references

The Examiner has rejected the claims as being obvious over the Fitch, Levin and Shanks references. As discussed above, Fitch discloses that a flexible display may be made by providing a flexible fabric panel with a plurality of holes through which LEDs protrude. The LEDs are selectively activated. Levin discloses a very similar concept, the only minor differences being the provision of two layers of fabric rather than one, with the two layers having matching holes so that the LEDs can protrude through both fabric layers. Shanks discloses a device formed of a sandwich of two rigid plastic plates and an intermediate layer of thin film electronic circuitry, insulating layers and a layer of light emitting polymer. Taken together the three references suggest to a person skilled in the art a display formed of a fabric with holes with the LEDs being replaced by a plurality of tiny three-layered light emitting means similar in structure to the devices in Shanks but small enough so that they do not interfere with the pliable characteristics of the fabric layer. Moreover, making the light emitting means bigger is clearly not desirable for this combination since no light can be transmitted through the two layers, except through the holes.

C. The invention defined by the claims has features not found in the combination

The present invention pertains to a device having several features that are not found in the combination described above. Independent claims 60 and 65 read as follows:

60. Apparel for a wearer comprising:

a clothing article including an integral panel forming an electronic display, said panel having fabric-like characteristics and being made of a layer of a light emitting polymer disposed on a layer of fabric; and

a control member coupled to said electronic display and arranged to generate signals corresponding to images shown on said electronic display.

65. A clothing apparel to be worn by a person, comprising:

a panel with an electronic display formed of a base of fabric and a layer of light emitting polymer material that generates light to define an image in response to electrical signals; and

a control member selectively generating said electrical signals.

These claims require, inter alia, a panel associated with an article of clothing and having fabric-like characteristics. In addition, the claims call for the display to include a layer of light emitting polymer disposed on a layer of fabric. Fitch and Levin disclose an

electronic display panel with fabric-like characteristics but this panel is not made of a light emitting polymer and does not emit light. Instead the panel has holes with protruding LEDs. Shanks at most teaches replacing the LEDs with a tiny device including two layers of a stiff material and a light emitting polymer.

Claim 62 have similar limitations except that the panel is incorporated into a garment used for war-games.

Claim 65 is similar to claim 60 but it does not require that the display panel be integral with article of clothing. In other words, the panel could be attached to the article of clothing, as illustrated in Fig. 1.

The difference between the combination used by the examiner to reject the claims and the claimed subject matter is summarized in the following table:

ELEMENT	FITCH	LEVIN	SHANKS	CLAIM 60
base	fabric with holes	two fabrics with holes	stiff plastic card	fabric
light source	LEDs protruding through holes	LEDs protruding through holes	LEP	LEP
flexibility	fabric-like	fabric-like	stiff like a plastic card	fabric-like

The term 'flexible' when applied to a sheet of material can have different meanings. More specifically, a printed circuit board is typically very stiff and if it is bent to any extent, it may crack and become inoperative. A sheet of plastic or a playing card, such as a credit card is more flexible than a PC board in that it can be bent by a small amount. The device disclosed by Shank is flexible like a credit card. A fabric is much more flexible than a credit card and because of this flexibility, fabrics can be used for clothing articles because they are pliable and conform to the contour of the wearer. It is immediately evident that a credit card or playing card is not as flexible as a fabric and a large panel made of or including a credit card-like material could not be incorporated into an article of clothing because it would be too uncomfortable.

In summary, the cited prior art teaches two kinds of displays. Fitch and Levin teach a display consisting of fabric layer(s) with holes through which LEDs protrude. Such an arrangement is not very desirable because it can generate images of very low resolution (determined by the spacing between the holes) and wiring must be provided between the LEDs. Shanks discloses stiff planar or curved displays made of plastic cards with LEP. Therefore a skilled person reading these references would come to the conclusion that a display having fabric-like characteristics can be made only by taking a fabric, making holes in it, and put LEDs through the holes. Arguably, he may decide to

change the LEDs to small pieces of plastic, each piece of plastic incorporating an LEP as taught by Shank. However this latter combination is not the present invention.

The present inventors have realized that an advantageous display can be made from an LEP deposited on a fabric base. There is no suggestion in the prior art of such a combination. Nobody has ever realized that LEP can be deposited on a soft fabric base to make a display having fabric-like characteristics.

As disclosed in the specification, and the drawings, a light-emitting panel formed of an LEP deposited on a fabric can be either attached to an article of clothing (such as a tie, a shirt, etc.) or can be integrally incorporated into the article so that it cannot be detached. Thus, three different embodiments are disclosed and claimed. In one embodiment covered by the claims of group I (such as claim 65, 67) an apparel or clothing article includes a light-emitting display with fabric-like characteristics.

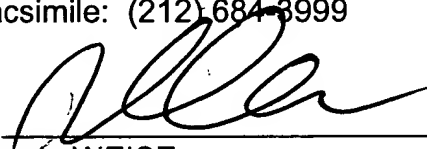
The claims of group II (such as claims 62, 33) cover a display that is on or attached to the article fabric. This group is patentable for the reasons given above for group I, and, in addition, because the prior art does not teach an article of clothing with a separate light-emitting display having fabric-like characteristics.

The claims of group III (such as claims 60 and 34) cover a light-emitting display that is integrally incorporated into clothing article or apparel. This group is patentable for the reasons given above for group I, and, in addition, because the prior art does not teach an article of clothing with an integral light-emitting display having fabric-like characteristics.

It is respectfully submitted that the claims of the subject application are not obvious over the references of record and therefore the Examiner's rejections should be reversed.

Respectfully submitted,

GOTTLIEB, RACKMAN & REISMAN, P.C.
Attorneys for Applicant
270 Madison Avenue
New York, New York 10016-0601
Telephone: (212) 684-3900
Facsimile: (212) 684-3999



Tiberiu WEISZ
Reg. No. 29,876

IX. APPENDIX --CLAIMS:

32. The clothing apparel of claim 65 further comprising a memory arranged to hold data associated with images, said control member being coupled to said memory to receive said data to generate said electrical signals.

33. The clothing apparel of claim 34 65 further comprising a securing member arranged to secure said panel on the body of said person.

34. (CURRENTLY AMENDED) The clothing apparel of claim 34 65 wherein said electronic display ~~layer~~ is integrally incorporated into said panel.

35. Previously Cancelled.

36. (CURRENTLY AMENDED) The clothing apparel of claim 34 65 wherein said electronic display ~~layer~~ is constructed to and arranged to show color images in response to said electrical signals.

37. (CURRENTLY AMENDED) The clothing apparel of claim 34 65 wherein said control member generates electrical signals defining a static image on said electronic display ~~layer~~.

38. (CURRENTLY AMENDED) The clothing apparel of claim ~~34~~ 65 wherein said control member generates electrical signals defining a dynamic image on said electronic display ~~layer~~.

39. (CURRENTLY AMENDED) The clothing apparel of claim 65 ~~34~~ further comprising a memory arranged to store several images, and a selection member coupled to said control member to select one of said images for display by said electronic display ~~layer~~.

40. (CURRENTLY AMENDED) The clothing apparel of claim ~~34~~ 65 wherein said control member generates signals defining a monochromatic image on said electronic display.

41. (PREVIOUSLY ADDED) The clothing apparel of claim 40 wherein said monochromatic image is a uniform color.

42. (PREVIOUSLY ADDED) The clothing apparel of claim 40 wherein said control member generates signals defining an image composed of alphanumeric characters.

43. (CURRENTLY AMENDED) The clothing apparel of claim 34 65 wherein said panel is sized and arranged to form part of a vest.

44. (CURRENTLY AMENDED) The clothing apparel of claim 34 65 wherein said panel is sized and arranged to form part of a shirt.

45. (CURRENTLY AMENDED) The clothing apparel of claim 34 65 wherein said panel is sized and arranged to form part of a cap.

46. (CURRENTLY AMENDED) The clothing apparel of claim 34 65 wherein said panel is sized and arranged form part of a tie.

47. (CURRENTLY AMENDED) The clothing apparel of claim 34 65 wherein said panel is sized and arranged to form a part of a pair of suspenders.

48. (CURRENTLY AMENDED) The clothing apparel of claim 34 65 wherein said panel is sized and arranged to form a part of a belt.

49. Currently Cancelled.

50. Previously Cancelled.

51. (CURRENTLY AMENDED) The apparel of claim 49 67 further comprising a memory storing data defining said ~~images~~ image.

52. (PREVIOUSLY ADDED) The apparel of claim 51 wherein said memory is replaceable.

53. (PREVIOUSLY ADDED) The apparel of claim 51 wherein said memory is arranged to hold data corresponding to several images and wherein said controller includes an image selector for selecting one of said images to be displayed.

54. (PREVIOUSLY AMENDED) The apparel of claim 53 wherein said image selector includes a timer to generate a timing signal and wherein said electronic display ~~layer~~ shows images in accordance with the said timing signal.

55. (PREVIOUSLY ADDED) The apparel of claim 53 wherein said image selector includes a keyboard for identifying an image to be displayed.

56. (CURRENTLY AMENDED) The apparel of claim 34 ~~67~~ wherein said display images formed of alphanumeric characters.

57. (PREVIOUSLY ADDED) The apparel of claim 56 further comprising a message selector cooperating with controller to select a message defined by said alphanumeric characters.

58. (PREVIOUSLY ADDED) The apparel of claim 57 wherein said message selector includes a keyboard for entering said alphanumeric characters.

59. (PREVIOUSLY ADDED) The apparel of claim 57 wherein said message selector includes an interface receiving external signals from an external device, said external signals defining said message.

60. (CURRENTLY AMENDED) Apparel for a wearer comprising:
a clothing article ~~constructed and arranged to be worn on the body of said wearer, said clothing article~~ including an integral panel forming an electronic display, said panel having fabric-like characteristics and being made of a layer of a light emitting polymer disposed on a layer of fabric; and

a control member coupled to said electronic display and arranged to generate signals corresponding to images shown on said electronic display.

61. Currently Cancelled.

62. (CURRENTLY AMENDED) Apparatus for playing a war game comprising:
a clothing article constructed to be worn by a participant in said war game;
a flexible display formed on said clothing article of a light emitting **layer formed of a light emitting** polymer **and a base formed of a layer of fabric**, said flexible display having fabric-like characteristics to conform to the body of the participant like a fabric and arranged to display selectively one of a plurality of images;

a controller generating signals for said display, said signals defining said images;
and

a gun coupled to said controller, said gun generating a beam when activated by said participant.

63. Currently Cancelled.

64. (PREVIOUSLY ADDED) The apparatus of claim 62 further comprising a sensor sensing hits on said participants from other participants.

65 (NEW). A clothing apparel to be worn by a person, comprising:
a panel with an electronic display formed of a base of fabric and a layer of light emitting polymer material that generates light to define an image in response to electrical signals; and

a control member selectively generating said electrical signals.

66 (NEW). The clothing apparel of claim 65 wherein said electronic display includes a protective layer on top of said layer of light emitting polymer material, said protective layer being made of one of a transparent and translucent material.

67 (NEW). Apparel for a wearer comprising:
a clothing article constructed and arranged to be worn on the body of said wearer, said clothing article including a panel;
an electronic display incorporated into panel, said panel including said electronic

display having fabric-like characteristics, said electronic display being formed of a base layer made of woven, non-woven or knitted fabric and a layer of a light emitting polymer that generate an image in response to electrical signals; and

a control member coupled to said electronic display and arranged to generate said signals.

CLAIMS WITH CHANGES INDICATED

31. (Twice Amended) Apparel to be worn by a person, comprising:

a panel formed of a fabric layer and an integral display layer attached to said fabric layer and formed of a light emitting polymer material suitable to generate electronic images responsive to electrical signals, said panel [being flexible] having fabric-like characteristics; and
a control member generating said electrical signals for said display layer.

49. (Twice Amended) Apparel for a wearer comprising:

a clothing article constructed and arranged to be worn on the body of said wearer, said clothing article including a panel with a fabric layer;
an electronic display layer incorporated into said fabric layer, said [fabric] panel including said [and] electronic display layer [being flexible] having fabric-like

characteristics and being made of a light emitting polymer, said electronic display layer being arranged and constructed to generate images in response to electrical signals; and

a control member coupled to said electronic display layer and arranged to generate said signals.

60. (Twice Amended) Apparel for a wearer comprising:

a clothing article constructed and arranged to be worn on the body of said wearer, said clothing article including an integral panel forming an electronic display , said panel [being flexible] having fabric-like characteristics and being made of a light emitting polymer; and

a control member coupled to said electronic display and arranged to generate signals corresponding to images shown on said electronic display.

62. (Twice Amended) Apparatus for playing a war game comprising:

a clothing article constructed to be worn by a participant in said war game;

a flexible display formed on said clothing article of a light emitting polymer, said flexible display having fabric-like characteristics to conform to the body of the participant like a fabric and arranged to display selectively one of a plurality of images;

a controller generating signals for said display, said signals defining said images; and

a gun coupled to said controller, said gun generating a beam when activated by said participant.

32. (CURRENTLY AMENDED) The clothing apparel of claim 34 65 further comprising a memory arranged to hold data associated with images, said control member being coupled to said memory to receive said data to generate said electrical signals.

33. (CURRENTLY AMENDED) The clothing apparel of claim 34 65 further comprising a securing member arranged to secure said panel on the body of said person.

34. (CURRENTLY AMENDED) The clothing apparel of claim 34 65 wherein said electronic display ~~layer~~ is integrally incorporated into said panel.

35. Previously Cancelled.

36. (CURRENTLY AMENDED) The clothing apparel of claim 34 65 wherein said electronic display ~~layer~~ is constructed to and arranged to show color images in response to said electrical signals.

37. (CURRENTLY AMENDED) The clothing apparel of claim ~~34~~ 65 wherein said control member generates electrical signals defining a static image on said electronic display ~~layer~~.

38. (CURRENTLY AMENDED) The clothing apparel of claim ~~34~~ 65 wherein said control member generates electrical signals defining a dynamic image on said electronic display ~~layer~~.

39. (CURRENTLY AMENDED) The clothing apparel of claim 65 ~~34~~ further comprising a memory arranged to store several images, and a selection member coupled to said control member to select one of said images for display by said electronic display ~~layer~~.

40. (CURRENTLY AMENDED) The clothing apparel of claim ~~34~~ 65 wherein said control member generates signals defining a monochromatic image on said electronic display.

41. (PREVIOUSLY ADDED) The clothing apparel of claim 40 wherein said monochromatic image is a uniform color.

42. (PREVIOUSLY ADDED) The clothing apparel of claim 40 wherein

said control member generates signals defining an image composed of alphanumeric characters.

43. (CURRENTLY AMENDED) The clothing apparel of claim 34 65 wherein said panel is sized and arranged to form part of a vest.

44. (CURRENTLY AMENDED) The clothing apparel of claim 34 65 wherein said panel is sized and arranged to form part of a shirt.

45. (CURRENTLY AMENDED) The clothing apparel of claim 34 65 wherein said panel is sized and arranged to form part of a cap.

46. (CURRENTLY AMENDED) The clothing apparel of claim 34 65 wherein said panel is sized and arranged form part of a tie.

47. (CURRENTLY AMENDED) The clothing apparel of claim 34 65 wherein said panel is sized and arranged to form a part of a pair of suspenders.

48. (CURRENTLY AMENDED) The clothing apparel of claim 34 65 wherein said panel is sized and arranged to form a part of a belt.

49. Currently Cancelled.

50. Previously Cancelled.

51. (CURRENTLY AMENDED) The apparel of claim ~~49~~ 67 further comprising a memory storing data defining said ~~images~~ image.

52. (PREVIOUSLY ADDED) The apparel of claim 51 wherein said memory is replaceable.

53. (PREVIOUSLY ADDED) The apparel of claim 51 wherein said memory is arranged to hold data corresponding to several images and wherein said controller includes an image selector for selecting one of said images to be displayed.

54. (CURRENTLY AMENDED) The apparel of claim 53 wherein said image selector includes a timer to generate a timing signal and wherein said electronic display ~~layer~~ shows images in accordance with the said timing signal.

55. (PREVIOUSLY ADDED) The apparel of claim 53 wherein said image selector includes a keyboard for identifying an image to be displayed.

56. (CURRENTLY AMENDED) The apparel of claim 34 67 wherein said display images formed of alphanumeric characters.

57. (PREVIOUSLY ADDED) The apparel of claim 56 further comprising a message selector cooperating with controller to select a message defined by said alphanumeric characters.

58. (PREVIOUSLY ADDED) The apparel of claim 57 wherein said message selector includes a keyboard for entering said alphanumeric characters.

59. (PREVIOUSLY ADDED) The apparel of claim 57 wherein said message selector includes an interface receiving external signals from an external device, said external signals defining said message.

60. (CURRENTLY AMENDED) Apparel for a wearer comprising:
~~a clothing article constructed and arranged to be worn on the body of said~~
~~wearer, said clothing article~~ including an integral panel forming an electronic display,
said panel having fabric-like characteristics and being made of a layer of a light
emitting polymer disposed on a layer of fabric; and

a control member coupled to said electronic display and arranged to

generate signals corresponding to images shown on said electronic display.

61. Currently Cancelled.

62. (CURRENTLY AMENDED) Apparatus for playing a war game comprising:

- a clothing article constructed to be worn by a participant in said war game;
- a flexible display formed on said clothing article of a light emitting layer formed of a light emitting polymer and a base formed of a layer of fabric, said flexible display having fabric-like characteristics to conform to the body of the participant like a fabric and arranged to display selectively one of a plurality of images;
- a controller generating signals for said display, said signals defining said images; and
- a gun coupled to said controller, said gun generating a beam when activated by said participant.

63. Currently Cancelled.

64. (PREVIOUSLY ADDED) The apparatus of claim 62 further

comprising a sensor sensing hits on said participants from other participants.

65 (NEW). A clothing apparel to be worn by a person, comprising:

a panel with an electronic display formed of a base of fabric and a layer of light emitting polymer material that generates light to define an image in response to electrical signals; and

a control member selectively generating said electrical signals.

66 (NEW). The clothing apparel of claim 65 wherein said electronic display includes a protective layer on top of said layer of light emitting polymer material, said protective layer being made of one of a transparent and translucent material.

67 (NEW). Apparel for a wearer comprising:

a clothing article constructed and arranged to be worn on the body of said wearer, said clothing article including a panel;

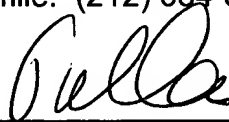
an electronic display incorporated into panel, said panel including said electronic display having fabric-like characteristics, said electronic display being formed of a base layer made of woven, non-woven or knitted fabric and a layer of a light

emitting polymer that generate an image in response to electrical signals; and

a control member coupled to said electronic display and arranged to generate said signals.

Respectfully submitted,

GOTTLIEB, RACKMAN & REISMAN, P.C.
Attorneys for Applicant
270 Madison Avenue
New York, New York 10016-0601
Telephone: (212) 684-3900
Facsimile: (212) 684-3999



Tiberiu WEISZ
Reg. No. 29, 876

Dated: January 20, 2005